

JUDGE GREEN

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

11 CIV 7531

-----X  
SHARON ISAACS, on behalf of herself and  
the class

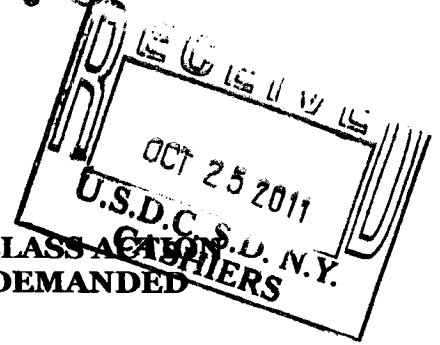
Plaintiffs,

v.

FIRST FINANCIAL ASSET MANAGEMENT,  
INC.

Defendant.  
-----X

COMPLAINT- CLASS ACTION  
JURY TRIAL DEMANDED



### INTRODUCTION

1. Plaintiff brings this action to secure redress from unlawful credit and collection practices engaged in by defendant First Financial Asset Management, Inc. ("FFAM"). Plaintiff alleges violation of the Fair Debt Collection Practices Act, 15 U.S.C. §1692 et seq. ("FDCPA").

2. The FDCPA broadly prohibits unfair or unconscionable collection methods; conduct which harasses, oppresses or abuses any debtor; and any false, deceptive or misleading statements in connection with the collection of a debt. 15 U.S.C. §§1692d, 1692e and 1692f.

3. The FDCPA requires a debt collector to name the creditor within 5 days after the initial communication with the consumer. 15 USC §1692g.

4. The reason for the requirement of naming the creditor is so that the consumer knows who the money is owed to.

5. The Second Circuit Court of Appeals holds that communications are viewed from the perspective of the least sophisticated consumer.

**JURISDICTION AND VENUE**

6. This Court has jurisdiction under 15 U.S.C. §1692k (FDCPA), 28 U.S.C. §1331 and 28 U.S.C. §1337.
7. Venue and personal jurisdiction in this District are proper because:
  - a. Defendant's collection communication was received by plaintiff within this District;
  - b. Defendant does business within this District.
8. Plaintiff, Sharon Isaacs, is an individual who resides in New York County, New York.
9. Plaintiff is a consumer as defined by the FDCPA.
10. Defendant, FFAM, is a corporation chartered under Delaware law with offices at 230 Peachtree Street, Ste 1700 in Atlanta, Georgia 30303.
11. Defendant is a debt collector as defined in the FDCPA.
12. FFAM is licensed by the New York City Department of Consumer Affairs as a debt collection agency. Its license number is 1295910.
13. According to its website <http://www.1fam.com/index.html>, "First Financial Asset Management, Inc. and our group of companies are leaders in business process outsourcing, accounts receivable management, debt acquisition and servicing, and debt portfolio sales."

**FACTS**

14. On or about September 7th, 2011, plaintiff was sent the collection letter attached as Exhibit A, bearing defendant's name.

15. In sending Exhibit A, defendant sought to collect a debt incurred for personal, family or household purposes, namely fees emanating from a personal credit card.

16. The debt that FFAM was seeking to collect is a “debt” as defined by the FDCPA.

17. Exhibit A is a standard form document.

18. More than 200 examples of Exhibit A have been sent out during the last 12 months.

19. Exhibit A is sent out with the knowledge and consent of defendant.

20. Documents in the form represented by Exhibit A are regularly sent to collect delinquent debts.

21. The letter has the logo of FFAM and directly below the logo it states the name of the company and then directly below the name of the company it seems to state the name of the division that is involved with this account- “Global Receivable Portfolio Solutions” and then below that the phone number of “877-363-0756”.

22. The phone number 877-363-0756 seems to be a fax number for a real estate agent in Arizona. See Exhibit B

23. Exhibit A states in the reference portion that “Original Creditor: JUNIPER”.

24. Exhibit A does not state in the reference portion of the letter nor anywhere else in the letter, the identity of the current creditor to whom the debt is owed.

25. Exhibit A is entitled “NOTICE OF ASSIGNMENT OF DEBT”.

26. The first sentence of the letter states “Your account with BARCLAYS BANK DELAWARE has been assigned to our agency for collection.”

27. Based on the letter the least sophisticated consumer would not know who the creditor is with any type of certainty.

28. The least sophisticated consumer may think that the creditor is FFAM based on the letter.

29. The least sophisticated consumer may think that the creditor is JUNIPER based on the letter.

30. The least sophisticated consumer may think that the creditor is BARCLAYS BANK DELAWARE based on the letter.

31. Even though the requirement is that the debt collector must send a written notice with the name of the creditor, an attempt to call the phone number listed 877-363-0756 on the collection letter to get clarification as to who the creditor is would be entirely unfruitful because that is a fax number belonging to a real estate agent in Arizona. See Exhibit B

### **VIOLATIONS ALLEGED**

32. Exhibit A violates 15 U.S.C. §§1692 and 1692g.

33. Section 1692g provides:

#### **§ 1692G. VALIDATION OF DEBTS**

##### **(a) Notice of debt; contents**

Within five days after the initial communication with a consumer in connection with the collection of any debt, a debt collector shall, unless the following information is contained in the initial communication or the consumer has paid the debt, send the consumer a written notice containing—

(1) the amount of the debt;

(2) the name of the creditor to whom the debt is owed;

(3) a statement that unless the consumer, within thirty days after receipt of the notice, disputes the validity of the debt, or any portion thereof, the debt will be assumed to be valid by the debt collector;

(4) a statement that if the consumer notifies the debt collector in writing within the thirty-day period that the debt, or any portion thereof, is disputed, the debt collector will obtain verification of the debt or a copy of a judgment against the consumer and a copy

of such verification or judgment will be mailed to the consumer by the debt collector; and  
(5) a statement that, upon the consumer's written request within the thirty-day period, the debt collector will provide the consumer with the name and address of the original creditor, if different from the current creditor.

34. Defendants violated the above provision of the statute because Exhibit A did not contain the name of the creditor to whom the debt is owed.

### **CLASS ALLEGATIONS**

35. Plaintiff brings this action on behalf of a class, pursuant to Federal Rules of Civil Procedure Rule 23(a) and 23(b) (3).

36. The class consists of (a) all individuals (b) with a New York address (c) who were sent a letter in the form represented by Exhibit A (d) on or after a date one year prior to the filing of this action and on or before a date 20 days after the filing of this action.

37. The class is so numerous that joinder of all members is not practicable. On information and belief, there are at least 40 members of the class.

38. There are questions of law and fact common to the class, which common questions predominate over any questions relating to individual class members. The predominant common question is whether Exhibit A violates the FDCPA.

39. Plaintiff's claim is typical of the claims of the class members. All are based on the same factual and legal theories.

40. Plaintiff will fairly and adequately represent the class members. Plaintiff has retained counsel experienced in class actions and FDCPA litigation.

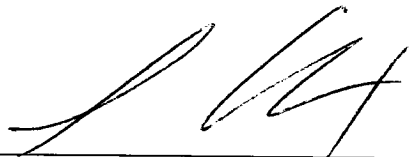
41. A class action is superior for the fair and efficient adjudication of this matter, in that individual actions are not economically feasible.

- a. Members of the class are likely to be unaware of their rights;
- b. Congress intended class actions to be the principal enforcement mechanism under the FDCPA.

**WHEREFORE**, the Court should enter judgment in favor of plaintiff and the class and against defendant for:

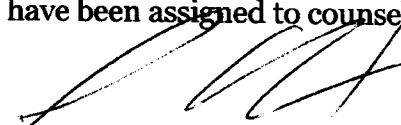
- (1) Statutory damages;
- (2) Attorney's fees, litigation expenses and costs of suit;
- (3) Such other and further relief as the Court deems proper.

Dated: New York, New York  
October 9, 2011

By:   
Shimshon Wexler (SW0770)  
*Attorney for Plaintiff*  
2710 Broadway, 2<sup>nd</sup> Floor  
New York, New York 10025  
Tel: (212)760-2400  
Fax: (917)512-6132  
[swexler@collectorabuselaw.com](mailto:swexler@collectorabuselaw.com)


**Notice of Assignment**

Please be advised that all rights relating to attorney's fees have been assigned to counsel.

  
Shimshon Wexler

**Jury Trial Demanded**

Plaintiff requests a jury trial on all issues so triable.

  
Shimshon Wexler

# **EXHIBIT A**

PO Box 901  
Fort Mill, SC 29716-0901

27 75 00005835 A 902281

11922203



FIRST FINANCIAL ASSET MGMT, INC.  
Global Receivable Portfolio Solutions  
877-363-0756

September 7, 2011



SHARON D ISAACS  
555 FORT WASHINGTON AVE APT 3C  
NEW YORK NY 10033-1912

"Please be advised that this communication is from a debt collection company"

Original Creditor: JUNIPER  
Account Number: XXXXXXXXXXXXXXX9481  
FFAMAcct Number: 11922203  
Account Balance: \$3,580.48

### NOTICE OF ASSIGNMENT OF DEBT

Your account with BARCLAYS BANK DELAWARE has been assigned to our agency for collection.

It is expected that you will contact this office upon receipt of this letter.

Unless you notify this office within THIRTY (30) days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within THIRTY (30) days from receiving this notice, this office will obtain verification of the debt and mail you a copy of such verification. If you request this office in writing within THIRTY (30) days after receiving this notice this office will provide you with the name and address of the original creditor, if different from current creditor. It should also be noted that this office has not formed an opinion on how to manage the collection of this debt.

Considering the IMPORTANCE of this issue, and our desire to resolve this matter in a timely fashion, your complete cooperation is requested.

- 877-363-0756

This is an attempt to collect a debt; any information obtained will be used for that purpose. If you have filed Bankruptcy or are in the process of filing Bankruptcy, this letter is for informational purposes only. Be advised that you could be charged up to a \$25 processing fee by our company for any returned check.

New York City Department of Consumer Affairs License Number: 1295910

\*\*\* Please detach And Return Bottom Portion With Payment \*\*\*

Account #: XXXXXXXXXXXXXXX9481  
FFAM Account#: 11922203  
Account Balance: \$3,580.48

Please provide the following information:

Daytime Phone # ( )  
Evening Phone # ( )  
Amount Enclosed \$

Please note any changes of address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



FIRST FINANCIAL ASSET MGMT, INC.  
P.O. Box 56245  
Atlanta, GA 30343

XXXXXXXXXXXX9481/00500/BRCL04  
SHARON D ISAACS  
555 FORT WASHINGTON AVE APT 3C  
New York, NY 100331912

FFAM.wfd 00500.V1

**\*\* All correspondence & payments must go to ATLANTA address NOT SOUTH CAROLINA \*\***



# **EXHIBIT B**



Official Site of the  
National Association of REALTORS®

#### Find Homes

Address, City, Zip, or Neighborhood

Listings Refreshed: 14 Minutes Ago

## 11001 N 153rd Drive

Surprise, AZ 85379

Presented by  
**Mike Horton**

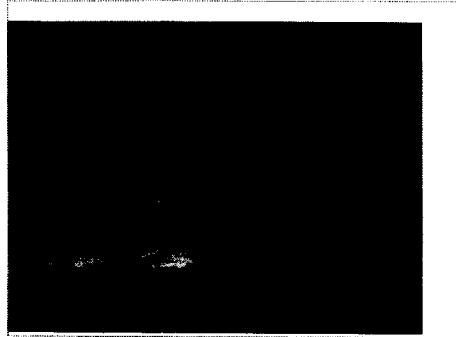
Your Surprise and West Valley  
Short Sale Specialist  
Mobile: (623) 606-8861  
Home Office: (623) 975-2289  
Fax: (877) 363-0756  
Broker: (602) 943-7252

Brokered by  
**CENTURY 21 ARIZONA  
FOOTHILLS**



Making Your Real  
Estate Dream Come  
True!

Office: (623) 975-2289  
Toll Free: (800) 821-9109  
Fax: (623) 975-3874



**\$389,900**

Beds: 5 Bed

Baths: 7 Bath

House Size: 4,464 Sq Ft

Lot Size: 0.36 Acres

### Property Details

You been searching for a captivating home with big rooms and awesome features for inspired living and now you can have it. In a locked gate community you can have quite streets accented by the cul-de-sac location and next to a community greenbelt. When you step outside your home, the backyard provides an outdoor retreat with large heated play pool, gazebo, plants and trees for irresistible family fun or gracious entertaining. There are many features including rough-cut granite counters, shell si... **(Read More)**

|                      |                    |
|----------------------|--------------------|
| <b>Beds</b>          | 5 bed              |
| <b>House Size</b>    | 4464 sq ft         |
| <b>Price</b>         | \$389,900          |
| <b>Property Type</b> | Single Family Home |
| <b>Neighborhood</b>  | Not Available      |
| <b>Stories</b>       | 2                  |

|                   |                       |
|-------------------|-----------------------|
| <b>Baths</b>      | 7 bath                |
| <b>Lot Size</b>   | 0.36 Acres            |
| <b>Price/sqft</b> | \$87                  |
| <b>Year Built</b> | 2004                  |
| <b>Style</b>      | Santa Barbara, Tuscan |
| <b>Garage</b>     | 3                     |

- Property Features**
- Status: ACTIVE
  - 2 stories
  - Family room
  - Master Bedroom is 21 x 20
  - Family room is 17 x 28
  - 3 fireplaces
  - Pool features: Heated Pool, Play Pool
  - Inclusions: ASSOCIATION FEE INCLUDES: Common Area Maintenance
  - Community security

- County: Maricopa
- Hill/mountain view
- Kitchen
- Living room is 16 x 21
- Dining room is 16 x 14
- Kitchen is 16 x 17
- View
- 3 car garage(s)
- Cooling features: Refrigeration
- Community features: Gated Community, Children's Playground, Biking/Walking Path, Gated Community
- Pets allowed